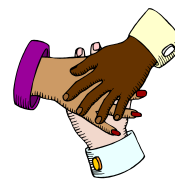




**Metropolitan Police Department**  
*Office of Professional Responsibility*  
*Civil Rights & Force Investigation Division*  
**MOA Compliance Monitoring Team**



Metropolitan Police Department  
and  
U. S. Department of Justice

**Memorandum of Agreement**  
**Progress Report**



JULY 11, 2005

**“It is a grand mistake to think of being great without goodness; and I pronounce it is as certain that there was never yet a truly great man that was not at the same time truly virtuous”**

**-Benjamin Franklin**

## **Introduction**

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In January 1999, Chief of Police Charles Ramsey and District of Columbia Mayor Anthony Williams asked the United States Department of Justice to review the Metropolitan Police Department's (MPD) practices as they related to police use of force. In March 2001, the U.S. Department of Justice (DOJ) concluded its review, and later entered into a Memorandum of Agreement (MOA) with the District of Columbia and the Metropolitan Police Department on June 13, 2001. The Agreement built upon the work MPD started during the course of the review, and provided that an Independent Monitor would evaluate the implementation of the Agreement. When the balance of the reforms contained in the Agreement are implemented, the Metropolitan Police Department will be a model for the nation on how to uphold the rule of law while using force only when and to the extent necessary.

This progress report is the fourteenth submitted by the Department's Compliance Monitoring Team (CMT). The Compliance Monitoring Team, part of the MPD's Office of Professional Responsibility (OPR), was created by Chief Ramsey to ensure the timely implementation of and compliance with the Memorandum of Agreement. This quarterly report reflects MPD's Memorandum of Agreement activity from April 1, 2005, through June 30, 2005.

**This quarterly report reflects MPD's Memorandum of Agreement activity from April 1, 2005, through June 30, 2005.**

MPD's quarterly reports are required by Memorandum of Agreement paragraph 175.<sup>1</sup> They have been designed by the MPD to share our MOA-related activities not only with the U.S. Department of Justice and the Office of the Independent Monitor (OIM), but also throughout the Metropolitan Police Department and the citizenry at large. Furthermore, there is an addendum to this quarterly report that lists all of the MOA paragraphs and the current status of each item.

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<sup>1</sup> MOA paragraph 175 states, “Between 90 and 120 days following the effective date of this Agreement, and every three months thereafter until this Agreement is terminated, MPD and the City shall file with DOJ and the Monitor a status report delineating all steps taken during the reporting period to comply with each provision of this Agreement.”

The Metropolitan Police Department began its fifth year of work on implementing the reforms called for in the Memorandum of Agreement during this reporting period. The fourth and fifth years of the MOA are significant in that MPD's "substantial compliance" with the MOA is measured during this time. Paragraph 182 of the MOA reads, in part, that,

*"The Agreement shall terminate five years after the effective date of the Agreement if the parties agree that MPD and the City have substantially complied with each of the provisions of this Agreement and maintained substantial compliance for at least two years. The burden shall be on the City and MPD to demonstrate that it has substantially complied with each of the provisions of the Agreement and maintained substantial compliance for at least two years..."*

The Office of the Independent Monitor is tasked with determining if MPD has substantially complied with the MOA and uses their quarterly reports to provide an analysis of MPD's compliance efforts. In 2004, the OIM, MPD, and DOJ agreed to a methodology for measuring substantial compliance in order to ensure that there are clearly defined measures for each requirement of the MOA. The OIM began including the objective substantial compliance standards as part of their reports last year along with assessments of MPD's compliance with these standards. MPD continues to find these reports helpful in identifying areas that need greater focus as we continue with our MOA efforts. A more detailed discussion of the OIM's activities can be found in the "Independent Monitor" section of this report.

MPD has continued its efforts to fully comply with all areas of the MOA, and has achieved a number of important accomplishments during this quarter including the submission of a number of important MOA deliverables. During the first quarter of 2005, MPD received DOJ approval on the revised *Canine Teams General Order*.<sup>2</sup> The approval and issuance of the order on February 18, 2005, allowed MPD to finalize a number of canine-related MOA deliverables. On June 29, 2005, MPD submitted a revised In-Service Canine Lesson Plan.<sup>3</sup> The lesson plan is used for training MPD officers about the philosophy of MPD's Canine Program as well as the rules and regulations governing the use of canines and canine deployment. On June 30, 2005, MPD also submitted two revised documents from the Canine Unit. MPD submitted the Canine Operations Manual drafted, in part to address the MOA requirements surrounding canine instructor certification.<sup>4</sup> MPD also submitted the Canine Unit's curriculum and lesson plans that outline the Canine Unit's policy of Handler-Controlled Alert Methodology.<sup>5</sup>

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<sup>2</sup> MOA paragraphs 44-46

<sup>3</sup> MOA paragraph 84

<sup>4</sup> MOA paragraph 148

<sup>5</sup> MOA paragraph 145

In addition, MPD also submitted a number of revised deliverables associated with the Personnel Performance Management Program (PPMS) during the last reporting period. The PPMS is a computer system, mandated by the MOA, that will be,

*“a computerized relational database for maintaining, integrating, and retrieving data necessary for supervision and management of MPD and its personnel.”<sup>6</sup>*

As previously reported, MPD has experienced delays in the development of PPMS. In March of 2004, MPD had to temporarily interrupt work with our selected vendor due to a lack of funding. MPD directed its efforts over the past year toward restarting work with the PPMS vendor and on working with DOJ on negotiating a third modification to the MOA that would provide new deadlines for the development of PPMS. During the last reporting period, MPD was very pleased to report that the contract to restart work with our selected vendor was finalized on March 7, 2005, and MPD and the City also reached agreement with DOJ on new deadlines for the development of the PPMS system and signed a third joint modification to the MOA on March 1, 2005.<sup>7</sup> Signing the modification removed MPD and the City from breach status and was an important milestone.

During this quarter, MPD also assigned Lieutenant Jacob Kishter to serve as the full-time PPMS Business Manager for the Office of Professional Responsibility. Lieutenant Kishter is a fifteen (15) year veteran of the MPD and has served in a variety of positions throughout the Department. Most recently, Lieutenant Kishter was assigned to the Force Investigation Team. Lieutenant Kishter's extensive knowledge, especially regarding use of force issues, will be a tremendous asset to the PPMS Team. As the business manager for PPMS, Lieutenant Kishter will coordinate and oversee the implementation of PPMS from the MPD "business" perspective including overseeing policy development, assisting with coordination of training, and overseeing PPMS testing to ensure it meets OPR's needs as well as the needs of other MPD units. MPD is pleased to have a member with Lieutenant Kishter's knowledge and experience working full-time on the PPMS project.

However, during this quarter, MPD experienced an initial setback in restarting work with our vendor, IBM/Motorola. Our vendor experienced staffing issues that prevented them

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<sup>6</sup> See MOA paragraph 106

<sup>7</sup> MOA paragraph 194 provides that, "The Parties may jointly agree, in writing, to modify this Agreement."

from completing the design document by the April 28, 2005 deadline.<sup>8</sup> Unfortunately, these issues had a negative impact on our schedule. MPD notified DOJ of these delays and notified them of several revised deadlines. Fortunately, by September of this year, MPD and the vendor expect to be back on schedule for meeting all of the deadlines outlined in the third modification to the MOA.

MPD submitted a number of important deliverables related to PPMS and the MOA during this quarter. On April 28, 2005, MPD submitted our "Plan for Compliance with MOA Paragraph 113" outlining our plan for PPMS records retention as well as PPMS data security. On April 28, 2005, MPD also submitted our "Plan for Compliance with MOA Paragraph 117" dealing with the Office of Professional Responsibility's (OPR's) use of the PPMS to conduct risk-assessments. On May 27, 2005, MPD submitted its interim draft of the PPMS General Order.<sup>9</sup> The general order outlines the policies that will govern MPD's use of PPMS. On June 24, 2005, MPD submitted our PPMS Data Input Plan by the revised deadline provided to DOJ.<sup>10</sup> The Data Input Plan describes, in part, the plan for the inputting of historical data into PPMS. A more detailed discussion of MPD's PPMS efforts can be found in the "*Personnel Performance Management System*" section of this report.

MPD also submitted revisions to our Personnel Evaluation System consistent with MOA paragraph 118. MPD and DOJ are working together to ensure that the finalized plan can be implemented for the next cycle of performance evaluations beginning on October 1, 2005. In addition, MPD submitted the Semi-Annual Review of our Use of Force Curriculum outlining the curriculum's consistency and compliance with both applicable laws and MPD policy.<sup>11</sup> Included as part of the review were revised copies of MPD's Pistol Re-certification Lesson Plan and Simmunitions Lesson Plan.<sup>12</sup> Further revisions to the Use of Force Incident Report (UFIR) and Reportable Incident Form (RIF) were also submitted to DOJ.<sup>13</sup>

During this quarter, MPD also implemented several enhancements to our Use of Force Review Board in response to technical assistance provided by the OIM.<sup>14</sup> MPD has reorganized the Board's membership, assigned an officer full-time to serve as the UFRB

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<sup>8</sup> See "Joint Modification No. 3 to June 13, 2001 Memorandum of Agreement Between the United States Department of Justice and the District of Columbia and the District of Columbia Police Department, March 1, 2005."

<sup>9</sup> MOA paragraph 111, 112, and 114c

<sup>10</sup> MOA paragraph 108

<sup>11</sup> MOA paragraph 119

<sup>12</sup> MOA paragraph 122

<sup>13</sup> MOA paragraph 53

<sup>14</sup> MOA paragraph 67

Administrator, and also provided training, conducted by the OIM, regarding using “decision point analysis” to review the cases.

MPD is continuing to implement the reforms called for by the MOA. This quarter saw the submission of a number of important deliverables, especially in the areas of canine and PPMS. MPD recognizes the importance of ensuring substantial compliance with all of the requirements of the MOA, and we will continue to treat our MOA efforts as a priority for the Department.

## **Compliance Monitoring Team**

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The Compliance Monitoring Team (CMT) was created by Chief Ramsey in February 2002, to ensure the timely implementation of and compliance with the MOA. The CMT falls under the Civil Rights and Force Investigation Division, located within MPD’s Office of Professional Responsibility. The CMT is tasked with coordinating the Department’s MOA-related activities and also serves as the primary liaison with the Department of Justice and the Office of the Independent Monitor. In addition, the CMT is responsible for drafting MPD’s quarterly progress reports that document our MOA activities.<sup>15</sup>

The CMT continued its compliance activities during this reporting period, and coordinated a variety of Memorandum of Agreement efforts. During this quarter, members of the Compliance Monitoring Team worked closely with the Department’s PPMS project leaders in preparing the PPMS Data Input Plan and the PPMS General Order.

The CMT also continued to provide support to various MPD units to assist them in completing MOA deliverables and to facilitate compliance documentation. The CMT worked with the staff of the Institute of Police Science (IPS) in helping to prepare the Semi-Annual Use of Force Curriculum Review. In addition, CMT members worked closely with members of the Policy and Program Development Division on the remaining general orders being developed for MOA compliance. This effort includes participating on the Work Group that was tasked with preparing a revised version of the *Disciplinary Process General Order*<sup>16</sup> consistent with the recently signed Collective Bargaining Agreement (CBA) with the Fraternal Order of Police (FOP).

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<sup>15</sup> MOA paragraph 175

<sup>16</sup> MOA paragraph 105

The CMT continued to work closely with the Independent Monitor to assist their police practice experts in reviewing MPD compliance efforts. The CMT worked on implementing the changes to the Use of Force Review Board consistent with the OIM's technical assistance and also coordinated the day-long training provided by the OIM to the new Board members. The CMT assisted the OIM in their review of use of force reporting by members by obtaining copies of select incident and arrest reports for the last quarter of 2004. The CMT also continued its practice of meeting monthly with the Department of Justice to discuss MOA activities.

In addition, the CMT remains the central repository for MPD's Memorandum of Agreement documents, and has been documenting and transmitting draft policies and other deliverables to DOJ and the Office of the Independent Monitor consistent with MOA paragraph 173.<sup>17</sup> Finally, the Compliance Monitoring Team continues to closely monitor MPD's costs associated with the Office of the Independent Monitor. With the assistance of the D.C. Office of Contracting and Procurement and MPD's Accounts Payable Office, the CMT continues to actively review OIM invoices to control costs and ensure accountability.

## **General Orders and Policies**

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Over the course of the Memorandum of Agreement, the U.S. Department of Justice has approved, and MPD has issued, a number of policies related to the Memorandum of Agreement. They include:

- *Use of Force General Order* (MOA paragraphs 37-40)
- *Use of Force Investigations General Order* (MOA paragraph 53)
- *Use of Force Incident Report* (MOA paragraph 53)
- *Handling of Service Weapons General Order* (MOA paragraphs 41 and 43)
- *Canine Teams General Order* (MOA paragraphs 44-46)
- *Oleoresin Capsicum Spray General Order* (MOA paragraphs 47-50)
- *Force Investigation Team Organizational Plan and Operations Manual* (MOA paragraph 57)
- *Force Related Duty Status Determination General Order*

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<sup>17</sup> MOA paragraph 173 states, "The parties agree that MPD shall hire and retain, or reassign a current MPD employee, for the duration of this Agreement, as an MPD Compliance Coordinator. The Compliance Coordinator shall serve as a liaison between MPD, the Monitor and DOJ, and shall assist with MPD's compliance with this Agreement. At a minimum, the Compliance Coordinator shall: (a) coordinate MPD compliance and implementation activities of this Agreement; (b) facilitate the provision of data, documents and other access to MPD employees and material to the Monitor and DOJ as needed; (c) ensure that all documents and records are maintained as provided in this Agreement; and (d) assist in assigning compliance tasks to MPD personnel, as directed by MPD Chief of Police or his designee."

- *Carrying Weapons and Transporting Prisoners Aboard Aircraft General Order*
- *Use of Force Review Board General Order* (MOA paragraph 67)
- *The Office of Internal Affairs Operational Manual* (MOA paragraph 72)
- *Serious Misconduct General Order* (MOA paragraph 72)
- *Community Outreach Program for Filing Citizen Complaints* (MOA paragraph 91)
- *Specialized Mission Unit General Order* (MOA paragraph 150-158)
- *Carrying Service Firearms While Off-Duty in the District of Columbia* (MOA paragraph 42) <sup>18</sup>
- *Limitation on Work Hours General Order* (MOA paragraph 159)

### ***Pending Reengineered Policies***

During this reporting period, MPD and DOJ continued to exchange a variety of detailed correspondence concerning numerous draft MPD policies and procedures. A status matrix containing all of the MOA paragraphs is submitted as an attachment with this report.

### **Citizen Complaint General Order**

The Metropolitan Police Department submitted a draft *Citizen Complaint General Order* to DOJ on October 4, 2002. <sup>19</sup> DOJ replied with detailed comments on November 25, 2002. MPD forwarded the draft to the Office of Police Complaints on December 27, 2002. <sup>20</sup> The Office of Police Complaints provided their comments to MPD on January 17, 2003.

After completion of the draft MPD OPC Memorandum of Understanding (MOU) on October 7, 2003, MPD incorporated relevant portions of the MOU into the general order and shared a revised draft of the order with OPC on December 8, 2003. OPC provided comments on December 10, 2003. On March 31, 2004 MPD notified DOJ that we had become aware that the FOP had raised concerns regarding OPC and that those concerns impacted their ability to comment on the general order. On April 30, 2004, the FOP received further clarification from OPC regarding their policies in dealing with MPD officers, and the FOP provided their comments on the order to MPD on June 29, 2004.

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<sup>18</sup> It should be noted that the special order "*Carrying Service Firearms While Off-Duty in the District of Columbia*," which was drafted in order to demonstrate partial compliance with MOA paragraph 42, did not require formal DOJ approval. Accordingly, a copy of the policy was shared with both DOJ and the OIM after it was implemented.

<sup>19</sup> MOA paragraph 94

<sup>20</sup> The Office of Police Complaints is an independent agency of the District of Columbia government that has the authority to investigate certain types of complaints against MPD officers.



In addition to incorporating the DOJ's comments, MPD also worked to ensure that the order remained consistent with the MOU that was being revised between MPD and the Office of Police Complaints. MPD and OPC obtained approval of the MOU on December 22, 2004. Accordingly, MPD submitted a revised version of the order to DOJ for approval on December 30, 2004. On February 10, 2005, DOJ provided their approval of the order. However, MPD contacted DOJ on February 11, 2005 to notify them of several procedural issues that had arisen. The procedural issues have since been addressed, but MPD is currently revising the formatting and style of the order to ensure that it is consistent with other MPD directives. MPD expects to share a revised version of the order with the Office of Police Complaints early during the next reporting period for comment and submit the order to DOJ for final approval.

### **Limitation on Work Hours General Order**

On November 27, 2002, MPD submitted a draft plan to limit the number of hours worked by MPD officers in any 24-hour period and in any seven-day period.<sup>21</sup> After the submission of the plan, MPD developed a draft general order, *Limitations on Work Hours*. On September 30, 2003, DOJ requested a status update on progress with that order. MPD submitted a draft general order for DOJ's review and approval on February 23, 2004. DOJ provided comments on the order on June 10, 2004. MPD reviewed DOJ's comments and prepared a response that was submitted to DOJ on June 30, 2004.

DOJ provided their comments on the revised draft on October 29, 2004. In their letter, DOJ recommended that MPD reduce the total number of hours a member can work in a calendar week from 98 to 72, and in a 24-hour period from 18 to 16. However, on December 21, 2004, DOJ clarified in a subsequent letter that MPD's decision not to adopt their recommendation to reduce the hour-limits would not amount to "non-compliance" with MOA paragraph 159. Accordingly, MPD published the approved order on January 6, 2005. However, MPD contacted DOJ on May 10, 2005 with a request to change the Limitation on Work Hours General Order. The published order required our Court Liaison Division (CLD) to record and monitor all members' court hours to ensure that work hours limitations are not exceeded. While CLD is responsible for recording members' court hours, they do not have access to the other hours worked by members. Accordingly, they do not have the capability or the resources to monitor members' hours to ensure limitations are not exceeded. The general order clearly assigns responsibility for monitoring work hours to direct supervisors, not CLD, and MPD's requested change removed any potential confusion over this issue. DOJ approved MPD's request on May 18, 2005. Accordingly, the revisions to the order were issued to the Department on June 9, 2005.

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<sup>21</sup> MOA paragraph 159

### **Performance Evaluation System Enhancements**

The Metropolitan Police Department submitted draft enhancements to its *Performance Evaluation System (PES)* to DOJ on November 8, 2002.<sup>22</sup> The MOA requires that MPD enhance its system for conducting annual performance evaluations for all sworn members of the Department. DOJ provided comments on the *PES* on May 2, 2003. MPD provided a status report on those comments on September 30, 2003. On October 6, 2003, DOJ provided comments on the status report by email. MPD provided an additional status report on our efforts with the protocol on March 5, 2004. MPD provided a finalized plan to DOJ for review on July 1, 2004.

DOJ requested some additional materials to aid in their review on September 24, 2004. MPD provided those materials to DOJ on September 29, 2004. Both MPD and DOJ had been working toward finalizing the enhancements to the *PES* in time for the Fiscal Year (FY) 2005 annual performance ratings.<sup>23</sup> However, on November 29, 2004 MPD contacted DOJ to inform them that we had decided it was necessary to move forward with the FY 2005 performance ratings before receiving final approval for the *PES*. On December 15, 2004, DOJ provided additional comments on the *PES*. MPD submitted a revised plan to DOJ on June 30, 2005. Both MPD and DOJ hope to finalize the plan in time for implementation for the next cycle of sworn performance evaluations beginning on October 1, 2005.

### **Specialized Mission Unit General Order**

The Metropolitan Police Department submitted a draft *Specialized Mission Units General Order* (MOA paragraphs 150-158) to DOJ on October 4, 2002. DOJ provided comments on the order on January 31, 2003. MPD provided a revised draft of the order on June 30, 2003. DOJ provided comments on the order on August 25, 2003. MPD submitted a revised order, along with a copy of the revised *Specialized Mission Units After Action Report* (SMUAAR) on December 31, 2003 as part of a larger package regarding revisions to the use of force reporting requirements for MPD. The SMUAAR is a form designed by MPD for Specialized Mission Units for incidents when multiple members of those units point their service weapons at or in the direction of other persons under specific enumerated circumstances. A more detailed discussion of the SMUAAR can be found in the *Specialized Mission Unit After-Action Report* section of this report.

On March 30, 2004 DOJ provided their final approval for the *Specialized Mission Units General Order*. However, on March 31, 2004, MPD requested a delay in the requirement to implement the *SMU General Order*. According to the first modification

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<sup>22</sup> MOA paragraph 118

<sup>23</sup> Fiscal Year 2005 began for MPD on October 1, 2004.

to the MOA, MPD agreed to implement all DOJ approved policies within 14 business days of receiving DOJ approval.<sup>24</sup> However, MPD wanted to resolve the outstanding issues regarding use of force reporting and the *After Action Report* prior to implementing the *SMU General Order* since the *SMU General Order* contains reference to the *After Action Report* and outlines the process for completing it. In addition, MPD feels it will be helpful to implement any changes to the use of force reporting requirements at one time to minimize confusion.

Accordingly, MPD requested a delay in implementing the *SMU General Order*. DOJ granted MPD's request, and MPD prepared a written response to DOJ's March 30, 2004, letter on April 9, 2004. On September 30, 2004, DOJ provided a response to MPD's latest draft of the *After Action Report* and the other use of force reporting materials. MPD provided a response to DOJ's most recent comments on December 1, 2004. DOJ provided their response on January 26, 2005. MPD had hoped to submit the revised SMU General Order and SMUAAR during this quarter. However, as with the Processing Citizen Complaints General Order, MPD is currently revising the formatting and style of the order to ensure that it is consistent with other MPD directives. MPD expects to submit the SMU General Order and the SMUAAR to DOJ for final approval during the next reporting period.

### **Disciplinary Process General Order**

A draft *Disciplinary Process General Order* (MOA paragraph 105) was submitted to DOJ for review on May 19, 2003. It is noted that the draft policy was due to DOJ during the renegotiated period of the week of November 17, 2002. However, as previously reported, MPD shared a draft of the order with the Fraternal Order of Police for comment. Prior to November 17, 2002, the FOP indicated that they had concerns with aspects of the draft order. MPD notified DOJ of those concerns and chose to delay the submission of the draft order to address the FOP's concerns.

DOJ provided comments on the May 19, 2003 draft order on August 25, 2003. MPD worked on revising the order last year in consultation with the FOP. However, the revision process coincided with ongoing negotiations between the FOP and MPD regarding compensation and working conditions. Article 12 of the Collective Bargaining Agreement, which specifically relates to disciplinary procedures, was one of the items being negotiated. Accordingly, any proposed changes to disciplinary procedures needed to be addressed formally at the bargaining table. MPD notified DOJ on July 29,

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<sup>24</sup> See *Joint Modification No. 1 to June 13, 2001 Memorandum of Agreement Between the United States Department of Justice and the District of Columbia and the District of Columbia Metropolitan Police Department*, September 30, 2002, paragraph 6.

2004, that the *Disciplinary Process General Order* could not be finalized by MPD until those negotiations are completed.

On October 19, 2004, DOJ contacted MPD by letter and asked MPD to provide a projected deliverable date for submission of the order to DOJ. MPD replied to DOJ on November 5, 2004. In the reply, MPD informed DOJ that negotiations regarding the Collective Bargaining Agreement remained ongoing. The parties had reached an impasse, and were going through the mediation process. We informed DOJ that the mediation process did not have a timeline associated with it that would allow us to project a date for submitting the revised order at that time.

The FOP ratified the new Collective Bargaining Agreement on February 24, 2005. Accordingly, our Policy and Program Development Division (PPDD) convened a work group to review the contract and to identify any necessary modifications that needed to be to the order. The work group included representation from MPD's Office of Human Services, the Office of the General Counsel, the Labor Relations Division, the Department Disciplinary Review Office (DDRO), PPDD, and the CMT. The work group met on numerous occasions during the months of April, May, and June to discuss revisions to the order, and a final order was submitted to the Chief's Office for review at the end of June. MPD will keep both DOJ and the OIM updated as we continue to progress with our revisions to this order.

### **Use of Force General Order**

MPD's Use of Force General Order was approved by DOJ and issued to the Department on October 7, 2002.<sup>25</sup> MOA paragraph 52 requires that MPD obtain DOJ approval prior to making any changes to this general order. On May 16, 2005, MPD submitted a request to revise the language in the order describing MPD's policy regarding shooting at or from moving vehicles. MPD does not feel this change will impact our ability to comply with the use of force requirements contained in the MOA, and we look forward to DOJ's response on this issue.

### **Chain of Command Misconduct Investigations Manual**

The Metropolitan Police Department submitted a draft *Chain of Command Misconduct Investigations Manual* to DOJ on October 25, 2002.<sup>26</sup> DOJ provided comments on the manual on March 26, 2003. Part of the requirement of MOA Paragraph 83 is that MPD develop a template to assist investigators with completing their misconduct investigations. Through the PPMS development process, MPD realized that information

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<sup>25</sup> MOA paragraphs 37-40

<sup>26</sup> MOA paragraph 83

from the template should be included in the PPMS system to ensure that consistent, comprehensive information is collected regarding misconduct investigations. However, in order to accomplish this, IBM/CRISNet requested the completed template by January 12, 2004, to ensure that it was included in the design of the system. The template was submitted to DOJ for review on December 30, 2003. On January 7, 2004, DOJ provided their approval "preliminarily," subject to MPD's completion of several suggested changes. MPD forwarded the revised, final template to DOJ and to IBM/CRISNet on January 12, 2004. MPD also finalized revisions to the *Chain of Command Misconduct Investigations Manual*, and forwarded the manual to DOJ for review on February 26, 2004.

Subsequent to the submission of the manual and template, MPD received the April 9, 2004 report prepared by the Office of the Independent Monitor entitled, *Technical Assistance Related to MPD's Chain of Command Investigations*. In part, the report contained recommendations specific to the way MPD conducted its misconduct investigations. Accordingly, MPD revised the template to accommodate many of the OIM's recommendations. MPD notified DOJ of these changes to the misconduct investigation template and submitted it along with a newly created "preliminary" misconduct investigation template to DOJ for review on June 7, 2004. Most recently, DOJ provided comments on the *Chain of Command Misconduct Investigations Manual* on June 29, 2004 and provided comments on the misconduct investigation templates on September 24, 2004. MPD is currently reviewing both sets of comments and expects to submit a revised manual along with the investigative templates during the next quarter.

### **Chain of Command Misconduct Investigations General Order**

The Metropolitan Police Department submitted a draft *Chain of Command Misconduct Investigations General Order* to DOJ on November 1, 2002.<sup>27</sup> DOJ provided comments on the order on January 31, 2003. MPD provided an update on the general order to DOJ on December 31, 2003 and provided a revised version of the general order to DOJ for review on February 26, 2004. DOJ provided comments on the order on June 29, 2004. MPD is currently reviewing those comments in conjunction with the *Chain of Command Misconduct Investigations Manual* and the associated investigative templates described above, and plans to submit the revised general order during the next reporting period.

### **Canine Operations Manual**

The Metropolitan Police Department submitted a draft *Canine Operations Manual* (MOA paragraph 147) to DOJ on November 27, 2002. DOJ provided comments on the manual on September 30, 2003. In their comments, DOJ stated that, "The materials which

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<sup>27</sup> MOA paragraph 83

MPD submitted will likely need to be substantially revised and expanded upon once DOJ and MPD reach agreement about how this methodology is going to be implemented at MPD in compliance with the MOA.” Accordingly, MPD delayed making revisions to the manual while MPD and DOJ worked on revising the *Canine Teams General Order*. With the publication of the approved general order during the last quarter quarter, MPD was able to finalize revisions to the manual. The manual was submitted for DOJ review and approval on June 30, 2005.

### ***Timelines***

As previously reported, MPD and DOJ renegotiated a number of outstanding MOA deadlines in September 2002, and agreed to a modification of the MOA.<sup>28</sup> The timeline issues excluded from the first modification were the dates that applied to the development of PPMS. On September 30, 2003, a second modification to the MOA was signed to renegotiate the outstanding deadlines surrounding PPMS-related deliverables of the MOA.<sup>29</sup> However, MPD’s PPMS efforts were interrupted due to funding issues. MPD notified the Department of Justice on March 8, 2004 that existing funding for the program would be exhausted by the end of March 2004. Accordingly, MPD discontinued its work with the selected PPMS vendor and began to aggressively pursue the identification of necessary funding.

These funding setbacks forced MPD to realize that it would be unable to meet the deadlines outlined in the second Modification to the MOA. Accordingly, on June 14, 2004, MPD formally notified DOJ that we would be unable to meet these deadlines and requested a third modification to the MOA. On June 18, 2004, we provided a proposed development schedule to further outline our proposal for the modification.

The Metropolitan Police Department and the Department of Justice worked together during 2004 and early 2005 in finalizing a third modification to the MOA. During this time, MPD was also able to secure additional funding for the PPMS project to restart. DOJ and MPD exchanged revised drafts of the modification and finalized negotiations during early 2005. One of the primary changes with the third modification was the incorporation of a phased development approach. The goal for Phase I development of

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<sup>28</sup> See “*Joint Modification No. 1 to June 13, 2001 Memorandum of Agreement Between the United States Department of Justice and the District of Columbia and the District of Columbia Police Department, September 30, 2002.*”

<sup>29</sup> See “*Joint Modification No. 2 to June 13, 2001 Memorandum of Agreement Between the United States Department of Justice and the District of Columbia and the District of Columbia Police Department, September 30, 2003.*”

PPMS will be the development of a system that is MOA compliant and is released to a limited set of MPD users. The goal for Phase II development will be to make any necessary adjustments to the system and to complete the rollout of the system to the entire MPD community. After finalizing revisions to the Modification, DOJ, MPD and the City executed the third Modification to the MOA on March 1, 2005.

Based on the third modification, the design document for Phase I of PPMS was to be completed by April 28, 2005. However, our selected vendor, IBM/Motorola, experienced staffing issues that prevented them from completing the design document by the April 28, 2005 deadline. These staffing issues were subsequently addressed and resolved to MPD's satisfaction. However, they did have a negative impact on the PPMS development schedule. Accordingly, we notified DOJ that completion of several of the initial deliverables would be delayed. The Design Document for Phase I PPMS would not be complete until June 17, 2005.<sup>30</sup> The revised Data Input Plan that was originally scheduled for delivery to DOJ on May 26, 2005, would be delayed until June 24, 2005.<sup>31</sup> MPD met both of the revised deadlines for the completion of the Design Document and the Data Input Plan. Finally, the deadline for "Phase I PPMS Application Delivery" which was originally scheduled for August 23, 2005 will not be completed until September 23, 2005.<sup>32</sup> Fortunately, by September of this year, MPD expects to be back on schedule for meeting all of the remaining deadlines. MPD expects and remains committed to meeting all subsequent deadlines outlined in the third modification to the MOA.

A more detailed report of the status of the PPMS project is included in the "Personnel Performance Management System" section of this report.

### ***Use of Force Incident Report***

MOA paragraph 53 requires the development of a Use of Force Incident Report (UFIR). The paragraph states, in part, the following:

*"MPD shall complete development of a Use of Force Reporting policy and Use of Force Incident Report. The policy shall require officers to notify their supervisor immediately following any use of force or receipt of an allegation of excessive use of force and to complete a Use of Force Incident Report. Additionally, the policy shall require officers to complete a Use of Force Incident Report immediately following the drawing of and pointing of a firearm at, or in the direction of, another person..."*

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<sup>30</sup> MOA paragraph 114d

<sup>31</sup> MOA paragraph 108

<sup>32</sup> MOA paragraph 114d

As previously reported, the development and implementation of the Use of Force Incident Report raised numerous issues for the Metropolitan Police Department. The UFIR form also raised a number of concerns among the Fraternal Order of Police and the rank and file. Based on these concerns, MPD has continued to work toward revising the UFIR to make it more user-friendly. MPD had obtained feedback from officers that the form, particularly the layout, was complicated and confusing. MPD believed that such confusion contributed to officer frustration with the UFIR.

As a result, MPD updated and reformatted the UFIR form, and submitted the proposed revisions, along with a detailed explanation for each proposed change, to DOJ on November 20, 2002. On March 19, 2003 DOJ provided detailed written feedback on the proposed form. MPD agreed to DOJ's recommendations regarding the UFIR, and submitted a revised UFIR that incorporated all of DOJ's suggestions on December 10, 2003. DOJ provided a response outlining their remaining concerns on February 27, 2004. On April 9, 2004, MPD submitted a written response to DOJ's February 27, 2004 letter.

During the second half of 2004, MPD and DOJ held a series of meetings and discussions to attempt to resolve the remaining outstanding issues surrounding the revised UFIR. Among the remaining issues being discussed was the most appropriate reporting and tracking mechanism when an officer is in "receipt of an allegation of excessive use of force."<sup>33</sup> Specifically, MPD raised concerns with the potential situation where officers would be required to complete a UFIR when they have not used any force. On September 24, 2004, DOJ provided a written response to MPD's April 9, 2004 submission. In the letter, DOJ agreed to MPD's proposed modification that for complaints of excessive force, when an officer maintains that he or she has not used any force, the incident should be processed as a citizen complaint instead of as a reportable use of force. MPD appreciates DOJ's receptiveness to working on this issue.

On December 1, 2004, MPD replied to DOJ's letter and submitted a final version of the revised UFIR for approval. As part of that submission, MPD also drafted a Special Order outlining the procedures for completing a UFIR. DOJ provided their final recommendations regarding revisions to the Special Order on January 26, 2005. MPD provided a final revised UFIR package to DOJ on June 30, 2005.

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<sup>33</sup> MOA Paragraph 53.



### ***Pointing of a Weapon at or in the Direction of a Person***

In the December 10, 2003 letter to DOJ concerning revisions to the UFIR, MPD also discussed another requirement of MOA paragraph 53. Paragraph 53 states, in part, that MPD's use of force policy shall,

*"...require officers to complete a Use of Force Incident Report immediately following the drawing of and pointing of a firearm at, or in the direction of, another person..."*

Based on MPD's experience with this requirement over the course of the MOA, and based on concerns raised by the FOP, MPD proposed revisiting this requirement and modifying the MOA.

MPD agrees that tracking the pointing of a weapon at or in the direction of a person is important. However, MPD proposed that this information need not be tracked on a Use of Force Incident Report per se. The MOA does not include the pointing of a weapon in its definition of use of force.<sup>34</sup> MPD considers the pointing of a weapon to be a reportable action. MPD is also very mindful of the concerns of the Fraternal Order of Police. The FOP has repeatedly raised concerns that capturing a "pointing" incident on a UFIR, but not classifying it as a use of force, can be viewed as somewhat misleading.

Accordingly, MPD developed a draft Reportable Incident Form (RIF). The new form provides a mechanism for tracking "pointing" incidents without associating them with a use of force. MPD included the proposed Reportable Incident Form with its December 10, 2003 UFIR submission to DOJ. DOJ provided a response on February 27, 2004. In their response DOJ indicated they were close to providing approval for the Reportable Incident Form based on MPD's response to several procedural concerns including providing assurances that the forms would receive appropriate supervisory review.

MPD provided a response to DOJ on April 9, 2004. Specifically, MPD submitted a draft Teletype to DOJ for review that instructed that the Reportable Incident Forms receive appropriate supervisory review, comparable to the review done for completed UFIRs. DOJ provided a response to MPD's submission on September 24, 2004. MPD provided a response to DOJ on the RIF on December 1, 2004 that accommodated DOJ's two remaining concerns. In addition, as part of the submission, MPD took the draft Teletype regarding the RIF, previously submitted to DOJ on April 9, 2004, and replaced it with a draft Special Order. While Teletypes are an effective means for transmitting new rules and regulations to the Department quickly, MPD feels that using a Special Order will be a more effective way of communicating the procedures associated with

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<sup>34</sup> MOA Paragraph 35.

the RIF, as well as the UFIR, over time. MPD also feels that having these Special Orders in place will help address some of the concerns that the OIM has raised about UFIR quality and completeness. DOJ provided their final recommendations regarding revisions to the Special Order on January 26, 2005. MPD provided a final revised RIF and RIF Special Order to DOJ on June 30, 2005.

### ***Specialized Mission Unit After-Action Report***

The third piece of MPD force-reporting deals with Specialized Mission Units. As previously reported, MPD sought to amend the reporting requirements for the UFIR form as it relates to select MPD Specialized Mission Units for incidents when multiple members of those units point their service weapon under specific enumerated circumstances. A Specialized Mission Unit is defined in the MOA as a group of officers who

*“...engage in significant patrol-related activities on a routine basis including contacts, stops, frisks, and searches...”<sup>35</sup>*

Examples of Specialized Mission Units within MPD are the Emergency Response Team (ERT) and the Warrant Squad. MPD is concerned about delays in operational efficiency when numerous SMU members are engaged in a specific activity where it is expected that most, if not all, members would be pointing their weapons (such as in a high risk warrant situation).

In a letter sent to DOJ on March 5, 2003, MPD proposed that members involved in such an incident would be exempt from having each member complete a UFIR. Instead, a unit manager would complete a Specialized Mission Unit After-Action Report.<sup>36</sup> DOJ provided a response to this request on August 25, 2003. In their response, DOJ recommended some revisions to the proposed form as well as revisions to the draft *Specialized Mission Unit General Order*.

On December 31, 2003 MPD provided a revised Specialized Mission Unit After-Action Report along with a revised *Specialized Mission Unit General Order* that incorporated the policies and procedures for the After-Action Report. MPD has developed the following specific criteria for when a “pointing” incident can be recorded on a Specialized Mission Unit After-Action Report:

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<sup>35</sup> MOA Paragraph 149

<sup>36</sup> This form was previously called the *Specialized Mission Unit Force Incident Report* or SMUFIR

- The Specialized Mission Unit (SMU) is a permanent, established unit meeting the requirements established in SMU General Order.
- The SMU is operating as a team at the time of the incident.
- The SMU is led by a clearly identified police manager during the incident (a lieutenant or above.)
- The SMU is on a pre-planned operation with a clear mission (e.g. execution of a high risk warrant).
- Members are working in unison.

MPD's goal with the After-Action Report is still to capture all pertinent information from the UFIR and the proposed MPD Reportable Incident Form, but to do it in a single format (one after-action report completed by a manager rather than 15 individual, nearly identical reports). MPD feels that the revised *SMU General Order*, combined with the revised After-Action Report will accomplish this goal while meeting the spirit of the MOA.

DOJ provided comments on both the *Specialized Mission Unit General Order* and the After-Action Report on March 30, 2004. In their response DOJ provided final approval on the *Specialized Mission Unit General Order* and outlined their remaining concerns regarding the After-Action Report. However, on March 31, 2004, MPD requested that DOJ grant an extension for the 14-business day implementation requirement for approved policies while MPD and DOJ resolve the remaining issues with the After-Action Report.<sup>37</sup> DOJ granted MPD's request, and MPD submitted a written response to DOJ's March 30, 2004 letter on April 9, 2004. DOJ provided their final concerns regarding the After-Action Report on September 24, 2004, specifically around the use of a SMUAAR to document a high-risk warrant situation.

On December 1, 2004, MPD replied to DOJ and clarified that MPD continues to feel that the execution of a high-risk warrant, when meeting the other specific criteria outlined in the *Specialized Mission Unit General Order*, is one of the situations where a SMUAAR is appropriate. We believe the fluidity of these situations makes the SMUAAR the more appropriate means for documenting the incident. DOJ approved our request on January 26, 2005. MPD had hoped to submit the revised *SMU General Order* and

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<sup>37</sup> See "Joint Modification No. 1 to June 13, 2001 Memorandum of Agreement Between the United States Department of Justice and the District of Columbia and the District of Columbia Metropolitan Police Department, September 30, 2002," paragraph 6.

SMUAAR during this quarter along with the RIF and the UFIR. However, as mentioned above, MPD is currently revising the formatting and style of the order to ensure that it is consistent with other MPD directives. MPD expects to submit the *SMU General Order* and the SMUAAR to DOJ for final approval during the next reporting period.

## Communications & Community Outreach

The Metropolitan Police Department Office of Corporate Communications has been the primary generator of MOA-related communications materials and activities. The Command Staff of MPD and the CMT have also played an active role in MOA communications activities. The "*Civil Rights and Force Investigations Division*" section on the MPD website, launched in 2002, continues to be a source for providing information to the public regarding MPD's efforts.<sup>38</sup> Copies of all of MPD Memorandum of Agreement progress reports are posted on the website.<sup>39</sup>



MPD Civil Rights and Force Investigation Division Homepage

MPD is also required to post quarterly statistics regarding use of force. MOA paragraph 160 reads,

*"MPD shall prepare quarterly public reports that include aggregate statistics of MPD use of force incidents broken down by MPD districts covering each of the geographic areas of the City, indicating the race/ethnicity of the subject of force. These aggregate numbers shall include the number of use of force incidents broken down by weapon used*

<sup>38</sup> [http://www.mpdc.dc.gov/serv/citizencomplaints/file\\_complaint.shtm](http://www.mpdc.dc.gov/serv/citizencomplaints/file_complaint.shtm)

<sup>39</sup> Quarterly Force Statistics and MPD MOA Progress Reports can be found online at:  
[http://mpdc.dc.gov/serv/citizencomplaints/crfid\\_reports.shtm](http://mpdc.dc.gov/serv/citizencomplaints/crfid_reports.shtm)

*and enforcement actions taken in connection with the use of force. The report shall include statistical information regarding use of force investigations conducted, including the outcome. The report shall also include the total number of complaints of excessive force received, broken down by MPD Districts, and the number of complaints held exonerated, sustained, insufficient facts, and unfounded.”*

In June, MPD posted use of force statistics for the first quarter of 2005 on the MPD website. MPD also submitted copies of the report to both the OIM and DOJ on June 29, 2005. Also, beginning with this quarter's reports, MPD is providing arrest information associated with the use of force incidents to better comply with the intent of MOA paragraph 160, as suggested by the OIM.

MPD continues to embrace the concept of multiple conduits for citizens to file citizen complaints. In addition to traditional complaint reporting methods, citizens can call a toll free telephone number (800) 298-4006, email complaints to [citizen.complaints@dc.gov](mailto:citizen.complaints@dc.gov), fax complaints to (202) 727-5116; and hearing impaired stakeholders can file complaints via TDD at (202) 898-1454.<sup>40</sup> Detailed, specific information on how to file a citizen complaint with MPD as well as a link to the Office of Police Complaints are also available on the MPD website.

### ***Office of Police Complaints***

In the District of Columbia, the investigation of citizen complaints against MPD police officers involves both the Metropolitan Police Department and the Office of Police Complaints. The District government enacted a law in 1999 establishing the Office of Police Complaints (formerly the Office of Citizen Complaint Review) as well as the governing Police Complaints Board (formerly the Citizen Complaint Review Board). The mission of OPC is to investigate, settle and adjudicate complaints of misconduct filed by the public against officers of the Metropolitan Police Department in an independent, fair and timely manner.

### **Memorandum of Understanding**

A Memorandum of Understanding was signed by representatives of both MPD and OPC on September 28, 2002. The MOU was drafted, pursuant to MOA paragraph 85, to address information sharing between the two agencies, training for OPC investigators, complaint intake and referral, witness interviews, and other items. MOA Paragraph 85 requires that, in part,

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<sup>40</sup> MOA paragraph 92.

*“...the City and MPD shall develop a written plan, in timely consultation with DOJ, that clearly delineates the roles and responsibilities of OCCR and MPD regarding the receipt, investigation, and review of complaints. At minimum, the plan shall specify each agency's responsibility for receiving, recording, investigating, and tracking complaints; each agency's responsibility for conducting community outreach and education regarding complaints; how, when, and in what fashion the agencies shall exchange information, including complaint referrals and information about sustained complaints; and the role and responsibilities of MPD official serving on the Citizen Complaint Review Board (CCRB).”*



Office of Police Complaints Logo

As previously noted, the Department of Justice and the Independent Monitor identified conflicts within the Memorandum of Understanding that did not comport with enumerated requirements in the MOA. Further, many jurisdictional and process disagreements remained between the agencies, despite the signing of the MOU.

Over the course of the last two years, representatives from each agency met on numerous occasions to discuss revisions to the MOU and to discuss outstanding issues. The meetings were very productive, and both agencies were able to agree to a number of revisions, including in the areas of information exchange and in training for OPC investigators. MPD and OPC devoted a great deal of time and resources to revising the MOU. The final draft of the MOU was submitted to the Department of Justice for review on September 24, 2004. DOJ provided their final approval for the MOU on December 22, 2004, and OPC and MPD signed the MOU on January 28, 2005.

This marks the first full reporting period with the implementation of the MOU. Both MPD and OPC have exchanged quarterly reports on complaint information consistent with the MOU. In addition, OPC meets regularly with the Assistant Chief of OPR to discuss any issues between the two agencies. MPD will also be working with OPC during the next quarter to get their feedback on the revised *Processing Citizen Complaints General Order*. MPD continues to be very pleased with our relationship with OPC and looks forward to continuing our work in implementing the provisions of the MOU.

## **Investigations**

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One of the cornerstones of the MOA is ensuring that both police officer misconduct and use of force investigations are completed in a timely and sufficient manner. These

types of investigations fall under the purview of the MPD's Office of Professional Responsibility. OPR determines which MPD unit will be responsible for the investigation of specific use of force and misconduct incidents. Within OPR, there are two primary organizational elements that conduct investigations: the Force Investigation Team and the Office of Internal Affairs (OIA). MOA paragraph 61 requires that the Force Investigation Team investigate serious use of force incidents<sup>41</sup> as well as use of force incidents indicating potential criminal conduct.<sup>42</sup> Other use of force incidents are investigated by the member's chain of command officials and are referred to as "chain of command use of force investigations."

The Office of Internal Affairs is responsible for investigating allegations of "serious misconduct" as defined in MOA paragraphs 72 and 73. Other allegations of misconduct are investigated by the member's chain of command officials and are referred to as "chain of command misconduct investigations."

As previously reported, Chief Ramsey requested that the Independent Monitor provide recommendations regarding improvements that could be made to MPD misconduct and non-FIT use of force investigations. The OIM promptly responded to this request, and submitted a report entitled *"Technical Assistance Related to MPD's Chain of Command Investigations"* to Chief Ramsey on April 9, 2004.

In response to the report, the Office of Professional Responsibility developed and/or enhanced several documents in order to address some of the issues that were identified. Although most of the documents are not formally required by the Memorandum of Agreement, MPD felt it was important to develop these policies and documents to help assist chain of command investigators and to improve the quality of both our use of force and misconduct investigations.

MPD found that many of the OIM's recommendations could be addressed through the creation and/or modification of Chain of Command Investigation Templates. Specifically, the following templates were used to address the OIM's recommendation:

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<sup>41</sup> MOA Paragraph 33 defines serious use of force as, "lethal and less-than-lethal actions by MPD officers including: (i) all firearm discharges by an MPD officer with the exception of range and training incidents and discharges at animals; (ii) all uses of force by an MPD officer resulting in a broken bone or an injury requiring hospitalization; (iii) all head strikes with an impact weapon; (iv) all uses of force by an MPD officer resulting in a loss of consciousness, or that create a substantial risk of death, serious disfigurement, disability or impairment of the functioning of any body part or organ; (v) all other uses of force by an MPD officer resulting in a death; and (vi) all incidents where a person receives a bite from an MPD canine."

<sup>42</sup> MOA Paragraph 35 states, "The term 'use of force indicating potential criminal conduct by an officer' shall include all strikes, blows, kicks or other similar uses of force against a handcuffed subject."

- Use of Force Preliminary Investigation Template
- Use of Force Final Investigation Template
- Misconduct Preliminary Investigation Template
- Misconduct Final Investigation Template

The templates were distributed to the Department and have been in use since May 2004. All Department supervisors are required to use these templates for their investigations. In addition, the four templates were provided to the OIM and DOJ on June 7, 2004 for comment. The Department of Justice provided comments on the templates on September 24, 2004. MPD has found that the use of these templates has helped to ensure that supervisors include MOA-required information when they complete their investigations. MPD is currently reviewing DOJ's comments on the templates and expects to submit revised templates during the next reporting period.

### ***Use of Force***

Chief of Police Charles Ramsey established the Force Investigation Team in January 1999. FIT has evolved into the new national model for police use of force investigations. The team, which took a business-related approach to force investigations, has been recognized internationally for its high-quality investigations and unique approach to use of force issues.

Previously, investigative protocols were established to comply with the requirements of the Memorandum of Agreement in the form of the *Force Investigation Team Organizational Plan and Operations Manual*. DOJ provided their approval for this document on December 31, 2003. FIT implemented the manual on January 29, 2004. FIT has worked very hard to provide a comprehensive operations manual that reflects the provisions of the MOA, and they feel that the DOJ-approved manual has been an invaluable resource for their investigators.

The OIM has also continued to submit consistently favorable reports regarding the quality of the FIT's investigations. In their most recent quarterly report, the OIM reported on their findings from a statistical analysis and review of forty-two (42) FIT investigations completed during 2004. The OIM reported,



*“The results of this analysis confirm our consistent findings that FIT performs thorough and high quality investigations. We found that 97.4% of the FIT I investigations finished in 2004 were ‘complete’ and that 100% of these investigations were ‘sufficient’.”<sup>43</sup>*

The OIM has also consistently found FIT and the MPD to be in substantial compliance with MOA paragraph 54 which requires MPD to notify the United States Attorney’s Office (USAO), “immediately, in no case later than the next business day, following a deadly use of force or a serious use of force by an MPD officer or following any use of force indicating potential criminal conduct by an officer.”

FIT is committed to ensuring it maintains the highest level of quality in its use of force investigations and will continue to comply with all of the requirements of the MOA.

### ***Use of Force Review Board***

MPD’s Use of Force Review Board reviews all serious use of force incidents. The Board is responsible for determining the final agency disposition for use of force cases and for making policy and training recommendations to the Chief of Police. DOJ approved MPD’s *UFRB General Order* and it was issued to the Department on February 14, 2003.

However, in November of 2004, the OIM first reported their concerns with the operations of the Board. Since that time, MPD personnel have met with the OIM on numerous occasions to discuss the concerns that the OIM had with the Board, as well as the OIM’s recommendations regarding possible improvements.

During the last quarter MPD implemented a number of the changes to the operations of the Board in response to the OIM’s technical assistance. The changes are summarized below:

- **Reorganization of UFRB Membership**

In discussions regarding Board membership, both the OIM and MPD felt that the Board would benefit from more direct involvement from the MPD Assistant Chiefs in the Board’s activities. It was also discussed that given the large implications surrounding use of force and training, MPD should have the

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<sup>43</sup> See “*Twelfth Quarterly Report of the Independent Monitor for the Metropolitan Police Department*”, dated April 29, 2005, page 30.

Commander/Director, IPS, replace the Deputy Director, IPS, on the UFRB. Accordingly, Chief Ramsey approved a reorganization of the UFRB membership. MPD feels that the membership below best reflects the OIM's recommendations combined with MPD's needs:

- Rotating Chair: One (1) Regional Operations Command (ROC) Assistant Chief to be selected by the Chief of Police or his designee.

*(Note: the three (3) ROC Assistant Chiefs will serve one (1) year terms as Chairs of the UFRB.)*

- Commanding Officer, Special Operations Division;
- Commanding Officer, Office of the Superintendent of Detectives;
- Commanding Officer, Maurice T. Turner Institute of Police Science;
- Two (2) rotating members, the rank of Commander, to be selected from one (1) of the seven (7) police districts.

*(Note: the Commanders will also serve one (1) year terms, and they will be selected from Districts that are not in the direct chain of command of the ROC Assistant Chief serving as Chair.)*

ROC-North Assistant Chief Peter Newsham has been selected by Chief Ramsey to serve as the Chair for the first year. Chief Newsham's first UFRB Meeting as Chair with the new Board members will be held on July 5, 2005. A copy of the schedule for the upcoming year is included as an attachment to this report.

MPD feels that this proposed structure provides an effective balance between giving the Assistant Chiefs greater exposure to Department-wide use of force issues while still ensuring that the Board operates with a predictable level of consistency and efficiency.

- **Increased UFRB Administrative Support**

Both the OIM and MPD had concerns that the Board did not have the administrative support that it needed to sufficiently carry out its duties. The Monitor has noted that deliberations needed greater focus and that more

attention was needed around the various "decision-points" made by members involved in use of force incidents. Accordingly, Chief Ramsey has appointed an officer to serve as the full-time UFRB Administrator. The Administrator's primary responsibility will be to support UFRB operations including outlining cases in the "decision-point matrix" format provided by the OIM to help guide Board deliberations.

- **OIM Training for Permanent Board Members**

One of the OIM's primary concerns regarding the UFRB was that while Board members were committed to their duties, the Board needed an improved structure and organized process for reviewing investigations in a methodical manner. Accordingly, the OIM offered to have Chief Dennis Nowicki (ret.) of the OIM Team provide training to Board members as a form of technical assistance.

The training was held for the new Board members on June 13, 2005. The training provided Board members with an opportunity to learn about "decision point matrices" in more detail, in conjunction with discussing how to provide more structure and focus to UFRB operations. The Board member's found Chief Nowicki's training to be very useful and feel it will help to provide a solid foundation for the new Board.

MPD is very pleased with these enhancements to the UFRB. We feel these recommendations are consistent with both the technical assistance provided by the OIM as well as the requirements of the MOA. We appreciate the OIM's hard work over the past six months in working with MPD on this issue.

During the next reporting period, MPD will work to modify the existing *UFRB General Order* governing the operation of the Board in anticipation of submitting the order to DOJ for review and approval.

### ***Office of Internal Affairs***

MPD's Office of Internal Affairs continues to be a primary hub of MOA compliance efforts. As previously reported, MPD implemented the *Serious Misconduct Investigations General Order* on January 16, 2004 of last year. The *Serious Misconduct Investigations General Order* serves as the basis for outlining OIA's investigative

responsibilities with regards to MOA requirements. The MOA specifies the types of alleged misconduct that must be investigated by the Office of Internal Affairs. MPD has defined these types of misconduct as "serious misconduct."

During this quarter, the Office of the Independent Monitor continued its practice of reviewing FIT, OIA, and chain of command investigative reports. During this quarter, the OIM reviewed a random selection of 77 non-FIT use of force and misconduct investigations, which were drawn from investigations opened between July 1, 2004 and September 30, 2004.<sup>44</sup> The investigations are reviewed for compliance with the MOA by the OIM's police practice experts. The selected sample consisted of investigations randomly selected from each of the seven (7) MPD police districts as well as other MPD assignments. The OIM and MPD worked together this quarter to provide the police practice experts with copies of the selected cases. The OIM again devoted a significant amount of time this quarter to reviewing the selected sample and documenting their analysis.

Over the course of their reviews, the OIM has provided useful statistical summaries of MPD's compliance with the various requirements for use of force and misconduct investigations, highlighting both areas of success as well as the areas that need improvement. MPD has found the statistical summaries provided by the OIM to be very useful in identifying areas needing focused attention. For example, the OIM has raised concerns regarding the timeliness of MPD investigations. In their most recent report, the OIM stated,

*"Timeliness has been the single most significant barrier to MPD's achievement of substantial compliance with respect to its MPD's internal investigations."*<sup>45</sup>

The MOA requires that use of force and misconduct investigations be completed within ninety (90) days after the incident or after the USAO issues a declination to prosecute.<sup>46</sup> MPD has been working to improve the timeliness of investigations. Legislation that recently went into effect, the "Fire and Police Disciplinary Procedure Act of 2004" has resulted in MPD making further modifications to the internal deadlines for completion of investigations which should help to address the timeliness issue.

The Act provides that, "no corrective action or adverse action against any sworn employee or civilian employee of...the Metropolitan Police Department shall be

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<sup>44</sup> MPD and the OIM had previously clarified that FIT and OPC investigations would not be considered part of the sample.

<sup>45</sup> See *Twelfth Quarterly Report of the Office of the Independent Monitor for the Metropolitan Police Department*, April 29, 2005, p. 40.

<sup>46</sup> MOA paragraphs 62, 65, 74, 103

commenced more than 90 days, not including Saturdays, Sundays, or legal holidays, after the date that the...Metropolitan Police Department knew or should have known of the act or occurrence allegedly constituting cause.” However, the Act does provide that in the event there is an ongoing criminal investigation into the incident by the MPD, the USAO, or the Office of the Attorney General for the District of Columbia (OAG), or if there is an ongoing investigation by the Office of Police Complaints, the 90-day time period shall be suspended until the conclusion of the investigation.

MPD now requires all administrative, use of force, misconduct and disciplinary investigations to be completed within thirty (30) calendar days,<sup>47</sup> including investigations being conducted by OIA and FIT.<sup>48</sup> There are provisions for granting exceptions under special circumstances, but the request must be documented in writing and approved by the appropriate Assistant Chief or civilian equivalent. MPD has implemented these procedures to ensure that we meet the timelines outlined in the Act. While these internal deadlines are more stringent than those required by the MOA, we feel these new procedures will improve the timeliness of our investigations as observed by the OIM.

MPD’s Office of Professional Responsibility remains committed to ensuring that all of the use of force and officer misconduct investigations conducted by the Department are consistent with the requirements of the MOA. OPR will continue implementing the remaining reforms contained in the MOA and looks forward to continuing its work with the Office of the Independent Monitor and with DOJ.

## **P o l i c e C a n i n e T e a m s**

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On May 4, 2000 the Metropolitan Police Department implemented an interim canine policy and began the initiation of significant improvements in our canine operations. The Department of Justice acknowledged these improvements in paragraph 44 of the Memorandum of Agreement. Paragraph 44 reads,

*“DOJ acknowledges that MPD has implemented an interim canine policy via teletype and has initiated significant improvements in its canine operations, including the introduction of a new handler-controlled alert curriculum and the use of new canines.”*

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<sup>47</sup> Motor vehicle crash administrative investigations involving MPD members must be completed within fifteen (15) calendar days.

<sup>48</sup> See MPD General Order PER – 201.22, “Fire and Police Disciplinary Action Procedure Act of 2004” June 1, 2005.

After the signing of the MOA, MPD worked on developing a revised *Canine Teams General Order* that incorporated relevant MOA requirements. DOJ approved MPD's *Canine Teams General Order*, and that policy was implemented on October 7, 2002.

As previously reported, MPD began working with DOJ on revisions to the order in June 2003. MPD's primary focus in revising the general order was to provide a more comprehensive definition for Handler-Controlled Alert Methodology (HCAM), the canine training methodology employed by MPD. MPD was very pleased to receive DOJ's final approval on the revised *Canine Teams General Order* on February 17, 2005, and the order was issued to the Department on February 18, 2005.

This quarter saw the submission of several important canine MOA-related deliverables. MPD originally submitted its comprehensive *Canine Lesson Plan and Training Curriculum* to DOJ on October 4, 2002. The lesson plan and curriculum were drafted to comply with MOA paragraph 145 that states,

*"MPD shall complete development and implementation of a comprehensive canine training curriculum and lesson plans which specifically identify goals, objectives and the mission of the Canine Unit, consistent with the Canine policy described in paragraphs 44-46 of this Agreement."*

DOJ provided comments on both the training curriculum and lesson plan on September 30, 2003. In their comments, DOJ stated that, "The materials which MPD submitted will likely need to be substantially revised and expanded upon once DOJ and MPD reach agreement about how this methodology is going to be implemented at MPD in compliance with the MOA." MPD delayed finalizing revisions to the lesson plan and curriculum while we worked with DOJ on finalizing revisions to the *Canine Teams General Order*. Based on the approval and publication of the *Canine Teams General Order* in February, MPD was able to complete the revisions and submit them to DOJ for review on June 30, 2005. It should be noted that MPD's General Counsel reviewed and approved the lesson plan and curriculum consistent with MOA paragraph 120 which reads,

*"MPD shall continue to have all training materials reviewed by General Counsel or other legal advisor."*

The lesson plan and curriculum were revised to comport with the new general order, and to incorporate the principles of Handler Controlled Alert Methodology (HCAM). HCAM is the methodology use by the MPD Canine Unit that results in both the canine and handler being trained to the point that the handler has demonstrated total control over the canine's actions. The canine is trained to bite only upon handler command.

The only circumstance under which a canine may bite without handler command is if the canine, the canine handler, or another is threatened with possible attack.

The latest submission of the Canine Unit's Lesson Plan and Curriculum also includes the the classroom portion of instruction which goes into specific detail regarding HCAM as well as the specific requirements of the MOA related to canine and use of force. The test given to the handlers to ensure they are knowledgeable about HCAM and the requirements of the MOA was also included as part of the package.

In addition to the lesson plan and curriculum, MPD also submitted revisions to the *Canine Operations Manual*. A draft of the manual, which institutionalizes almost all MPD canine issues into one document, was originally completed and submitted to DOJ on November 27, 2002. Although the manual is not formally required by the MOA, it does outline MPD's requirements for the certification of canine instructors consistent with MOA paragraph 148.<sup>49</sup>

In their last report, the OIM discussed MPD's Canine Program at great length. As part of their monitoring activities, they conducted a detailed review of all of the canine bite incidents from 2003 and 2004, and reported the following:

*"Our overall conclusion based upon the detailed review of these 27 canine cases from 2003 and 2004 is that MPD handlers appear to be using canines under appropriate circumstances and in appropriate ways. We have seen no evidence that canines are permitted to bite subjects under circumstances not warranting such a use of force and no evidence that MPD handlers permitted canines to "chew" or otherwise used canines to punish suspects. On the contrary, virtually all of the bite incidents we reviewed indicate that the canine and handler performed, whether the canine was on-lead or off-lead, in a manner consistent with its training and with the principles of the Handler-Controlled Alert Methodology."*<sup>50</sup>

The OIM also provided favorable reviews of the two Basic Patrol Dog classes that were observed. The OIM found that the new handlers and canines were "progressing well" through the training, and that the instructors seemed "knowledgeable and committed to the Handler Controlled Alert Methodology."<sup>51</sup>

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<sup>49</sup> MOA paragraph 148 reads, ***"Within 180 days, MPD shall require that all of its in-house canine trainers are certified canine instructors."***

<sup>50</sup> See *Twelfth Quarterly Report of the Office of the Independent Monitor for the Metropolitan Police Department*, April 29, 2005, p.2.

<sup>51</sup> See *Twelfth Quarterly Report of the Office of the Independent Monitor for the Metropolitan Police Department*, April 29, 2005, p.77.

MPD is very pleased with the continued progress made by the Canine Unit during this quarter. The submission of the MOA deliverables combined with the OIM's favorable review of canine bite incidents and canine training demonstrate the Canine Unit's sustained commitment to ensuring that their policies and practices adhere to the requirements of the MOA and the philosophy of HCAM.

## **Training**

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Training and education are key aspects of the Metropolitan Police Department's use of force management. Accordingly, the Department's Maurice T. Turner Institute of Police Science is tasked with the responsibility to train members of the Department on the reengineered MPD policies. IPS continued its efforts this quarter regarding compliance with the MOA. A summary of those efforts appears below.

### ***Lesson Plans***

The MOA provides for DOJ approval over MPD's use of force curriculum. Pursuant to MOA Paragraph 119 and 122, MPD originally submitted the eleven (11) lesson plans that comprised our use of force curriculum to DOJ on July 24, 2002. The status of those lesson plans is outlined in Table 1 below. During this quarter, MPD submitted two of the lesson plans that comprise Pistol Qualification to DOJ for review on June 30, 2005. Specifically, MPD submitted the following lesson plans:

- In-Service Pistol Re-Certification Lesson Plan
- Simmunitions Training

The lesson plans incorporated comments from DOJ's most recent correspondence. In addition, MPD's General Counsel reviewed and approved DOJ's recommended changes to the above lesson plans consistent with the MOA.<sup>52</sup>

In addition to its work on the use of force curriculum, IPS completed development of sixteen (16) lesson plans in September 2002, to demonstrate compliance with MOA paragraphs 84, 98, and 129 that deal with training for supervisors and investigators. The lesson plans also served as the curriculum for fiscal year 2003 Annual In-Service Training. Table 2 summarizes the lesson plans that were created to comply with MOA paragraphs 84, 98, and 129 as well as the current status of each lesson plan.

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<sup>52</sup> See MOA paragraph 120.



During this quarter, MPD submitted the revised In-Service Canine Lesson Plan to DOJ for approval. This is the lesson plan that was drafted for non-Canine Unit members to learn about the policies governing our canine program, consistent with MOA paragraph 84.

<b>Table 1: MPD Use of Force Curriculum Summary</b>	
ASP Tactical Baton Training Program	Approved by DOJ (09-30-03)
Close Quarter Combat	Approved by DOJ (09-30-03)
Controlled F.O.R.C.E.	Approved by DOJ (09-30-03)
Ground Fighting	Approved by DOJ (09-30-03)
Handcuffing	Approved by DOJ (09-30-03)
Krav/Maga	Approved by DOJ (09-30-03)
OC Spray	Approved by DOJ (09-30-04)
Officer Street Survival	Approved by DOJ (03-24-05)
Pistol Qualification <sup>53</sup>	Pending DOJ (as of 06-30-05) <sup>54</sup>
Use of Force Continuum (with Manual) <sup>55</sup>	Approved by DOJ (03-24-05)
Verbal Judo	Approved by DOJ (09-24-04)

<b>Table 2: MOA 84, 98, and 129 Lesson Plans Status</b>	
Administrative Misconduct Investigation Policy & Procedures using the Preponderance of Evidence Standard	Pending approval of <i>Chain of Command Misconduct Investigations General Order</i> and <i>Chain of Command Investigations Manual</i>
Arrest, Custody, and Restraint Procedures	Approved by DOJ (09-30-04)
Bias-related Hate Crimes	Approved by DOJ (05-16-03)
Canine Policies and Procedures	Pending DOJ (as of 06-30-05)
Command Accountability	Approved by DOJ (11-25-02)
Communication and Interpersonal Relationship Skills	Approved by DOJ (11-25-02)
Crime Scene Preservation	Approved by DOJ (05-16-03)
Cultural Diversity and Sensitivity Awareness	Approved by DOJ (02-10-05)
Defensive Tactics	Approved by DOJ (05-16-03)

<sup>53</sup> It should be noted that there are three separate lesson plans that comprise Pistol Qualification: In-Service Pistol Recertification, Simmunitions Training, and Range 2000/Electronic Simulator.

<sup>54</sup> It should be noted that this lesson plan was previously approved by DOJ on September 30, 2003. However, MPD subsequently made changes to the lesson plan. Accordingly, the plan was resubmitted to DOJ for approval.

<sup>55</sup> It should be noted that this lesson plan was also submitted as one of the sixteen lesson plans that comprised the curriculum for fiscal year 2003 Annual In-Service Training.

Ethics, Integrity, and Professionalism	Approved by DOJ (11-25-02)
Interview and Interrogation	Approved by DOJ (03-24-05)
Theories of Motivation and Leadership	Approved by DOJ (11-25-02)
Use of Force and Use of Force Continuum (with Manual) <sup>56</sup>	Approved by DOJ (03-24-05)
Use of Force Incident Report Form	Pending approval of revised UFIR.
Use of Force Review Board	Approved by DOJ (09-30-04)
Verbal Judo Recertification	Approved by DOJ (11-25-02)

MPD has obtained approval of ten (10) of the eleven (11) lesson plans that make up our Use of Force Curriculum and thirteen (13) of sixteen (16) lesson plans drafted to comply with MOA paragraphs 84, 98, and 129. MPD is very pleased to have received DOJ approval over the vast majority of our MOA-related lesson plans, and we will continue working with DOJ to finalize the four remaining plans.

### ***Field Training Officer Program Protocol***

The Metropolitan Police Department submitted a draft *Enhanced Field Training Officer Program Protocol* to DOJ on December 6, 2002, pursuant to MOA paragraph 121f. The MOA requires that,

*“MPD shall continue its Field Training program. Within 120 days of the effective date of this Agreement, MPD shall develop a protocol, subject to approval by DOJ, to enhance the Field Training program. The protocol shall address the criteria and method for selecting Field Trainers, the training provided to Field Trainers to perform their duties, the length of time that probationary officers spend in the program, the assignment of probationary officers to Field Trainers, the substance of the training provided by the Field Trainers, and the evaluation of probationary officer performance by Field Trainers.”<sup>57</sup>*

DOJ provided comments on MPD’s submission on September 30, 2003. MPD finalized their revisions and enhancements to the FTO Protocol and it was submitted to DOJ on September 27, 2004. On December 9, 2004 DOJ provided their final approval of the FTO program. MPD has been working since that time on implementing the program.

During this quarter, the IPS Curriculum Development Specialist (CDS) worked with the Director of IPS on the implementation of the FTO Program. IPS created a one-day

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<sup>56</sup> It should be noted that this lesson plan was also submitted as one of the eleven (11) lesson plans that comprised the use of force curriculum originally submitted to DOJ July 24, 2002 .

<sup>57</sup> MOA paragraph 121f

orientation for adjunct FTO instructors on the approved FTO curriculum for Field Training Sergeants (FTS) and Field Training Supervisors.

On June 28, 2005, the training for the adjunct FTO instructors was held at IPS. The training was designed to familiarize the adjunct instructors with the components of the approved FTO program, and to develop a procedure to move the paperwork through the districts and back to the CDS for documentation and archiving. IPS will continue to ensure that the approved FTO program is implemented throughout the MPD in the coming quarters.

### ***Other IPS Memorandum of Agreement Activities***

On June 30, 2005, MPD submitted its most recent Semi-Annual Use of Force Curriculum Review prepared by the Curriculum Development Specialist at IPS. These reviews are required by MOA Paragraph 119 to be submitted to both the Department of Justice and the Office of the Independent Monitor. The latest review summarized the changes that IPS staff have made to the use of force curriculum during the past six months. The review also included a summary of MPD's contacts with Glock, Inc. MOA paragraph 144 requires that,

*"MPD shall regularly, at a minimum every 3 months, consult the manufacturer for accurate, consistent and current information regarding all Glock specific instructions and guidelines, particularly regarding cleaning, maintenance and marksmanship. MPD must establish procedures to ensure that such information is continually updated as necessary and such practices are duly documented."*

A copy of the Glock notification log is included as an attachment to this report.

During this quarter, MPD also received comments from DOJ on the IPS Training Staff Assessment and Development Plan. MPD had submitted the plan to DOJ for approval on October 4, 2002. On September 30, 2003, DOJ requested an update on the plan. The update was provided on December 30, 2004. DOJ provided additional comments on February 3, 2005. MPD provided its latest response on March 19, 2005. DOJ provide their comments on June 14, 2005, and requested that MPD provide an update on the plan. MPD is currently reviewing DOJ's latest comments.

The IPS staff worked very hard during this quarter in preparing the Semi-Annual Use of Force Curriculum Review, and coordinating the adjunct FTO instructor orientation and training. IPS will continue to work in the coming quarters toward ensuring full compliance with the training requirements in the MOA.

## **Personnel Performance Management System**

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The Metropolitan Police Department and the District of Columbia have committed to develop and fully implement the Personnel Performance Management System, the early intervention system required by the MOA. PPMS will be,

*“a computerized relational database for maintaining, integrating, and retrieving data necessary for supervision and management of the Police Department and its personnel.”<sup>58</sup>*

PPMS will be used regularly and affirmatively by the Metropolitan Police Department to promote civil rights integrity and best professional police practices.

As previously reported, MPD has experienced significant delays with the implementation of PPMS. MPD acknowledged that it had not met the original PPMS timetables set forth in the MOA, and Chief Ramsey was not satisfied with the progress made on the project. He recognized that the Department's efforts in this area needed to be enhanced, and reorganized the MPD Information Technology Division (MPD-IT). Accordingly, MPD, DOJ and the City were able to reach agreement on September 30, 2003 to a second modification to the MOA that provided revised deadlines for all PPMS-related MOA deliverables.<sup>59</sup>

In accordance with MOA Paragraph 114b, MPD selected IBM and Motorola to develop PPMS. IBM/Motorola began work with the Department in September 2003. MPD and IBM/Motorola worked very closely during late 2003 and early 2004 to finalize the development of PPMS system requirements. However, as previously reported, MPD experienced a significant setback in the area of funding for PPMS. MPD had to temporarily interrupt work with IBM/Motorola on March 31, 2004 due to a lack of funding. Accordingly, during 2004 and early 2005, MPD worked to secure additional funding for the project and to finalize the contract for the development of PPMS.

MPD notified DOJ of the funding setback on March 8, 2004 and worked with DOJ over the past year to draft a third modification to the MOA with new deadlines for the development of PPMS. The modification was signed and executed on March 1, 2005.

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<sup>58</sup> MOA Paragraph 106

<sup>59</sup> See “Joint Modification No. 2 to June 13, 2001 Memorandum of Agreement Between the United States Department of Justice and the District of Columbia and the District of Columbia Police Department, September 30, 2002”

As discussed earlier in the report, one of the primary changes with the third Modification is the incorporation of a phased development approach. The goal for Phase I development of PPMS will be the development of a system that is MOA compliant and is released to a limited set of MPD users. Among the units that will be included in the initial user base are the Office of Professional Responsibility, Human Services Division, IPS, the Canine Unit, as well as one Regional Operations Command office and one Police District. Phase II development will include making any necessary adjustments and enhancements to the system and will also complete the rollout of the system to the entire MPD community. Table 3 below outlines some of the major milestones outlined in the modification for the development of PPMS.

<b>Table 3: Modification 3, Selected Requirement Summary</b>		
<b>MOA ¶</b>	<b>MOA Requirement Summary</b>	<b>Deadline</b>
114b	Secure finalized, signed contract with the PPMS vendor.	March 7, 2005
114c	Submit Protocol to DOJ <ul style="list-style-type: none"> <li>• Submit General Order to DOJ</li> <li>• Submit Standard Operating Procedures to DOJ</li> </ul>	May 30, 2005 August 30, 2005
114d	DOJ and OIM Beta-Testing Begins	November 3, 2005
114e	PPMS computer program and computer hardware operational and fully implemented. <ul style="list-style-type: none"> <li>• Phase I PPMS rollout complete</li> <li>• Phase II PPMS rollout complete</li> </ul>	January 19, 2006 August 31, 2006

As described earlier in report, during this quarter, MPD experienced an initial setback in restarting work with our vendor, IBM/Motorola. Our vendor experienced staffing issues which prevented them from completing the Phase I Design Document by the April 28, 2005 deadline outlined in the third modification. Unfortunately, these issues had a negative impact on our schedule. Table 4 below outlines the dates that were impacted by the staffing delays along with the new deadlines that MPD proposed to DOJ.

<b>Table 4: Modification 3, Adjusted Deadlines</b>			
<b>MOA ¶</b>	<b>MOA Requirement Summary</b>	<b>Original Deadline</b>	<b>Adjusted Deadline</b>
108	Submit PPMS Data Input Plan.	May 26, 2005	June 24, 2005
114d	<ul style="list-style-type: none"> <li>Complete PPMS Phase I Design Document</li> <li>Phase I PPMS Application Delivery</li> </ul>	April 28, 2005  August 23, 2005	June 17, 2005  September 23, 2005

Fortunately, by September of this year, MPD and the vendor expect to be back on schedule for meeting all of the remaining deadlines outlined in Modification 3 to the MOA.

Despite the initial delays, MPD submitted a number of important deliverables related to PPMS and the MOA during this quarter. On April 28, 2005, MPD submitted our plan for compliance with MOA paragraph 113 outlining our plan for PPMS records retention as well as data security. On April 28, 2005, MPD submitted its plan for compliance with MOA paragraph 117 dealing with the Office of Professional Responsibility's (OPR's) use of the PPMS to conduct risk-assessments. MPD received comments from DOJ on the plan dated, June 7, 2005, which are currently being reviewed. MPD expects to submit a revised plan to DOJ during the next quarter.

On May 27, 2005, MPD submitted the interim draft of the PPMS General Order. The General Order outlines the policies that will govern MPD's use of PPMS. On June 24, 2005, MPD submitted our PPMS Data Input Plan. The Data Input Plan describes, in part, the plan for the inputting of historical data into PPMS.

MPD continues to hold PPMS team meetings to ensure that ongoing progress is made in preparing for the implementation of the system. The PPMS Executive Steering Committee has also continued their weekly meetings to discuss the development of PPMS. Select MPD Command Staff members make up the Steering Committee whose purpose is to brief Chief Ramsey on a weekly basis about the progress of the system. These meetings serve to keep Department leadership informed and also ensure that the development of PPMS remains a top priority. Also, beginning during this quarter, MPD and the vendor began holding monthly "PPMS Program Review" meetings. These

meetings include representation from IBM/Motorola, MPD-IT, OPR, and the CMT. The purpose of the meetings is to discuss progress with the PPMS program and to discuss adherence to both budget and schedule. The meetings also provide an opportunity for both sides to identify any issues that need to be addressed. MPD has found these meetings very helpful as another method of monitoring progress with the development of PPMS. MPD is exceptionally pleased with the progress that has been made during this quarter and will continue to ensure that the remaining development deadlines for PPMS are met.

### ***Performance Evaluation System***

The MOA requires that MPD enhance its Personnel Evaluation System for all sworn members. Paragraph 118 of the MOA reads, in part,

*“...MPD shall prepare for the review and approval of DOJ, and thereafter implement, a plan to enhance its new Performance Evaluation System to ensure that annual personnel performance evaluations are prepared for all MPD sworn employees that accurately reflect the quality of each sworn employee's performance, including, but not limited to:*

- a. civil rights integrity and the employee's community policing efforts;*
- b. adherence to law, including but not limited to performing duties in a manner consistent with the requirements of the Fourth and Fifth Amendments to the Constitution and the Civil Rights laws of the United States;*
- c. with respect to managers, and supervisors, their performance in identifying and addressing at-risk behavior in subordinates, including their supervision and review of use of force; arrests, booking, and performance bearing upon honesty and integrity.”*

The Metropolitan Police Department submitted a draft *Enhanced Performance Evaluation System Protocol* to DOJ on November 8, 2002. DOJ provided comments on the protocol on May 2, 2003. MPD provided a status report on those comments on September 30, 2003. On October 6, 2003, DOJ provided comments on MPD's update. On March 5, 2004, MPD provided an additional update regarding its efforts in revising the Performance Evaluation System that outlined the work done by MPD to date. MPD submitted the final, revised materials to DOJ for review on July 1, 2004.

On September 10, 2004, MPD contacted the Department of Justice to request that they expedite their review of our July 1 submission. MPD performance evaluations for officers and sergeants operate under the “fiscal year” timeframe (October 1 – September 30). Accordingly, MPD wanted to implement the new standards and revised

general order in time for the new rating period. DOJ agreed to do what they could to accommodate our request. On September 24, 2004 DOJ contacted MPD to request additional information to aid in their review. In part, they wanted to obtain some overview information regarding the City's "Performance Management Program"(PMP).

The PMP is the citywide program designed to assess employee performance. MPD uses the Performance Management Program for evaluating sworn members the rank of lieutenant or above. MPD provided DOJ the requested information regarding the PMP on September 29, 2004.

On December 15, 2004, DOJ provided their comments on the July 1, 2004 submission. DOJ requested that MPD provide a response to their comments by June 30, 2005. This will help to ensure that all changes can be finalized and implemented in time for the FY 2006 rating period beginning October 1, 2005

Accordingly, on June 30, 2005, MPD submitted a revised PES package to DOJ containing the following materials:

- A revised draft of the General Order on the Performance Management System (PMS) that pertains to the performance evaluation system for officers, sergeants, agents, investigators, and detectives of MPD,
- A letter from MPD to the D.C. Office of Personnel (DCOP), requesting the implementation of changes to the PMP On-line evaluation system;
- The proposed revised Individual Performance Plan (IPP) template for PMP to incorporate items from MOA paragraph 118;
- The revised PMS standards manuals for the ranks of (1) officer, (2) sergeant, and (3) agent, investigator and detective.

Both the MPD Testing and Standards Unit and the Office of Human Services worked very hard during the first half of 2005 in revising the performance evaluation standards in PMS and PMP that together cover all sworn personnel of the Department. MPD remains mindful of our joint goal of implementing the envisioned changes in time for the FY 2006 performance evaluation cycles of PMS and PMP.



Once DOJ's final comments are received, the appropriate changes will be made, and the new standards manuals for PMS and PMP will be printed and issued to all sworn and civilian personnel who supervise and manage sworn subordinates. Human Services is then planning to coordinate training on the revised PMS and PMP standards before the beginning of the FY 2006 performance evaluation cycle on October 1, 2005. MPD's Office of Human Services plans to push out an accelerated training schedule on the PMS changes to lieutenants and sergeants from the middle of August through September 30, 2005. It is also planned that a two-hour block of instruction on the PMS performance evaluation system will be provided to officers and sergeants as a part of the Annual In-service Training Program. Refresher training sessions on PMP for sworn personnel at the rank of lieutenant and above will be scheduled as well from the middle of August through September 30, 2005. In order to coordinate the training and distribute the PES materials, MPD has asked DOJ to comment on the materials, if possible, by August 15, 2005.

MPD looks forward to receiving DOJ's comments on the revised PES package and in implementing an approved program in time for the FY2006 cycle.

## **Department of Justice**

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Since the creation of the Compliance Monitoring Team in February 2002, there has been significant, sustained interaction and cooperation between the Metropolitan Police Department and the Department of Justice. Notwithstanding meetings and formal correspondence, there have been numerous other contacts between the two agencies in order to continue the established dialogue.

During this quarter, representatives from MPD and DOJ continued attending the monthly "all-hands" meetings held at the Office of the Independent Monitor, as well as monthly DOJ and CMT meetings that are held on the third Thursday of every month. DOJ also provided comments on MPD work products during the quarter consistent with MOA paragraph 178.<sup>60</sup> DOJ provided comments on a number of MPD deliverables during this reporting period including:

- MPD's request to change the *Limitation on Work Hours General Order* (MOA paragraph 159)
- MPD's Plan for Compliance with MOA Paragraph 117

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<sup>60</sup> MOA paragraph 178 reads, "DOJ shall review documents and information provided by MPD and the Monitor and shall provide its analysis and comments to the City, MPD and the Monitor at appropriate times and in an appropriate manner, consistent with the purpose of this Agreement to promote cooperative efforts."

- IPS Staffing and Instructor Assessment Plan (MOA paragraph 134)

MPD and DOJ continue to have a cooperative relationship. The Metropolitan Police Department looks forward to continuing its partnership with the Department of Justice to jointly complete the requirements of this Memorandum of Agreement.

## **Independent Monitor**

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The Memorandum of Agreement requires that the Metropolitan Police Department and the Department of Justice jointly select an Independent Monitor to review, report, and assist on matters related to the Agreement's implementation.<sup>61</sup> On March 28, 2002, the Metropolitan Police Department and the law firm of Fried, Frank, Harris, Shriver & Jacobson jointly announced that Michael R. Bromwich had been selected as the Independent Monitor. Mr. Bromwich is a partner at the firm, and is head of the internal investigations, compliance and monitoring practice group there.

The Independent Monitor completes and disseminates quarterly progress reports regarding MPD's Memorandum of Agreement compliance efforts.<sup>62</sup> The next report is scheduled to be completed later this month. Previous reports are available at the Independent Monitor's website at [www.policemonitor.org](http://www.policemonitor.org).

The Independent Monitor continues to host monthly "all-hands" meetings in which all MOA stakeholders meet including the Chief of Police, the Department of Justice, the Office of Police Complaints, and the Compliance Monitoring Team. These meetings occur on the first Monday of each month and continue to provide a forum for all of the MOA stakeholders to discuss the status of MOA compliance efforts.

The OIM has continued its practice of sending its police practice experts to the Department in order to review various aspects of MOA compliance. The Compliance Monitoring Team has been assisting the OIM by facilitating document and meeting requests throughout the Department. During this reporting period, members of the OIM team engaged in various monitoring activities including the following:

- Completed review of eighth sample of use of force and misconduct investigations

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<sup>61</sup> MOA paragraph 161

<sup>62</sup> MOA paragraph 179

- Continued reviewing all completed FIT preliminary and final use of force investigations
- Monitored UFRB hearing and provided technical assistance regarding the UFRB
- Reviewed UFIRs and use of force reporting
- Reviewed MPD disciplinary process and record keeping
- Monitored basic patrol dog final certification
- Attended community outreach meetings and monitored required advertising compliance

The OIM and MPD are also working to develop a means of auditing the citizen complaint process pursuant to MOA paragraph 94. The parties discussed this issue several times during the last quarter, and we plan to revisit the issue early during the next reporting period.

MPD continues to be pleased with the OIM's analysis and reporting of MPD's compliance with the requirements of the MOA. In addition, the OIM's technical assistance, most recently with the UFRB, has been helpful in assisting MPD move forward with the MOA. MPD would especially like to thank Chief Nowicki for the training he provided to the UFRB on June 13, 2005. MPD looks forward to continuing our work with the OIM for the remainder of the MOA.

## **Conclusion**

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The Metropolitan Police Department is pleased with the progress made during this quarter with our continuing MOA compliance efforts. MPD submitted a number of important MOA-related items to DOJ for their review and approval including:

- *PPMS General Order*
- *PPMS Data Input Plan*
- *PPMS Business Process Design Document*
- *PPMS Phase I Design Specification Document*
- *Revised UFIR and RIF*
- *Semi-Annual Use of Force Curriculum Review*
- *Pistol Qualification Lesson Plan*
- *Canine Operations Manual*
- *Canine Unit Lesson Plan and Curriculum*
- *Canine In-Service Lesson Plan for Patrol Officers and Supervisors*

However, MPD remains mindful that there is still work to be done. During the next quarter, MPD will continue its work in preparing the Department for the implementation of PPMS, and will continue to work on finalizing additional deliverables including the *Disciplinary Process General Order* and the *PPMS Standard Operating Procedure*.

The Metropolitan Police Department remains committed to becoming fully compliant with the provisions of the MOA and becoming the national model on how to uphold the rule of law while using force only when and to the extent necessary.

## **Attachments**

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- MPD-DOJ Memorandum of Agreement Completion Matrix Report, June 30, 2005
- Use of Force Review Board Schedule, July 2005 – July 2006
- MOA 144, Glock Notification Log, as of April 15, 2005